

EXHIBIT A
SUMMONS & COMPLAINT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Date Filed:

Index:

=====X

RUEBIN KENNEDY,

SUMMONS

Plaintiff,

Plaintiff designates
Bronx County
as place of trial

-against-

JOE OROCHENA and YRC INC. d/b/a YRC FREIGHT,

The basis of the venue is:
Situs of Occurrence

Defendants.

=====X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, to, if the complaint is not served with the summons, to serve a notice of appearance, on the plaintiff's attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: New York, New York
October 21, 2021

The nature of this action is for injuries sustained as a result of the defendants' negligence.
The relief sought is monetary damages.

ELEFTERAKIS, ELEFTERAKIS & PANEK

BY: NICHOLAS ELEFTERAKIS, ESQ.
Attorneys for Plaintiff
80 Pine Street, 38th Floor
New York, N.Y. 10005
(212) 532-1116

Failure to respond, a judgment will be against you, by default and interest from September 21, 2021.

Defendants:
JOE OROCHENA
15 1st Street, Unit 1
Lodi, NJ 07644

FILED: BRONX COUNTY CLERK 10/22/2021 03:04 PM

INDEX NO. 814430/2021E

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 10/22/2021

YRC INC. d/b/a YRC FREIGHT

CT Corporation System

28 Liberty Street

New York, NY 10005

YRC INC. d/b/a YRC FREIGHT

10990 Roe Avenue

Overland Park, KS 66211 - 1213

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF BRONX

===== X

Index No:

RUEBIN KENNEDY,

Plaintiff,

VERIFIED COMPLAINT

-against-

JOE OROCHENA and YRC INC. d/b/a YRC FREIGHT,

Defendants.

===== X

Plaintiff, by his attorneys, ELEFTERAKIS, ELEFTERAKIS & PANEK, as and for his
Verified Complaint, respectfully alleges, upon information and belief:

AS AND FOR A FIRST CAUSE OF ACTION

1. The plaintiff, **RUEBIN KENNEDY**, at all times herein mentioned was and still is a resident of the State of New York.
2. The defendant, **JOE OROCHENA**, at all times herein mentioned was and still is a resident of the State of New York.
3. That at all of the times hereinafter mentioned, and upon information and belief, the defendant, **YRC INC. d/b/a YRC FREIGHT**, was a domestic corporation duly organized and existing under and by virtue of the Laws of the State of New York.
4. That at all the times hereinafter alleged, and upon information and belief, Defendant, **YRC INC. d/b/a YRC FREIGHT**, was and still is a foreign corporation authorized to do business under and by virtue of the laws of the State of New York.
5. That at all of the times hereinafter mentioned, and upon information and belief, Defendant, **YRC INC. d/b/a YRC FREIGHT**, maintained a principal place of business in the State of New York.
6. That at all of the times hereinafter mentioned, and upon information and belief, Defendant,

YRC INC. d/b/a YRC FREIGHT, conducted and carried on business in the State of New York.

7. That at all of the times hereinafter mentioned, and upon information and belief, Defendant, **YRC INC. d/b/a YRC FREIGHT**, transacted business within the State of New York.
8. That at all of the times hereinafter mentioned, and upon information and belief, Defendant, **YRC INC. d/b/a YRC FREIGHT**, derived substantial revenue from goods used or consumed or services rendered in the State of New York.
9. That at all of the times hereinafter mentioned, and upon information and belief, Defendant, **YRC INC. d/b/a YRC FREIGHT**, expected or should have reasonably expected its acts to have consequences in the State of New York.
10. On or about September 21, 2021, defendant, **JOE OROCHENA**, owned a certain automobile with license plate 2752215 as issued by the State of Indiana.
11. On or about September 21, 2021, defendant, **JOE OROCHENA** was the lessee of a certain automobile with license plate 2752215 as issued by the State of Indiana.
12. On or about September 21, 2021, defendant, **JOE OROCHENA** was the lessor of a certain automobile with license plate 2752215 as issued by the State of Indiana.
13. On or about September 21, 2021, defendant, **JOE OROCHENA** maintained a certain automobile with license plate 2752215 as issued by the State of Indiana.
14. On or about September 21, 2021, defendant, **JOE OROCHENA** controlled a certain automobile with license plate 2752215 as issued by the State of Indiana.
15. On or about September 21, 2021, defendant, **JOE OROCHENA** operated a certain automobile with license plate 2752215 as issued by the State of Indiana.

16. On or about September 21, 2021, defendant, **JOE OROCHENA** operated, maintained and controlled a certain automobile with license plate 2752215 as issued by the State of Indiana with consent of its owner.
17. On or about September 21, 2021, defendant, **YRC INC. d/b/a YRC FREIGHT**, owned a certain automobile with license plate 2752215 as issued by the State of Indiana.
18. On or about September 21, 2021, defendant, **YRC INC. d/b/a YRC FREIGHT** was the lessee of a certain automobile with license plate 2752215 as issued by the State of Indiana.
19. On or about September 21, 2021, defendant, **YRC INC. d/b/a YRC FREIGHT** was the lessor of a certain automobile with license plate 2752215 as issued by the State of Indiana.
20. On or about September 21, 2021, defendant, **YRC INC. d/b/a YRC FREIGHT** maintained a certain automobile with license plate 2752215 as issued by the State of Indiana.
21. On or about September 21, 2021, defendant, **YRC INC. d/b/a YRC FREIGHT** controlled a certain automobile with license plate 2752215 as issued by the State of Indiana.
22. On or about September 21, 2021, defendant, **JOE OROCHENA** operated, maintained and controlled a certain automobile with license plate 2752215 as issued by the State of Indiana with consent of its owner defendant, **YRC INC. d/b/a YRC FREIGHT**.
23. On or about September 21, 2021, defendant, **JOE OROCHENA** operated, maintained and controlled a certain automobile with license plate 2752215 as issued by the State of Indiana during the course of his employment with defendant, **YRC INC. d/b/a YRC FREIGHT**.
24. At all times hereinafter mentioned, the roadway known as Boston Road at or near the premises located at 4070 Boston Road in Bronx County, State of New York, was a public roadway and thoroughfare in common use by the residents of the State of New York, and others.

25. That on September 21, 2021, the plaintiff, **RUEBIN KENNEDY**, was the driver in a motor vehicle with license plate KPF2664 as issued by the State of New York at the location described.
26. That on September 21, 2021, at the aforesaid location, the defendants' motor vehicle came in contact with plaintiff's motor vehicle.
27. That the aforesaid accident and injuries resulting therefrom were due solely and wholly as a result of the careless, reckless, wrongful, willful and negligent manner in which the defendant, **JOE OROCHENA**, operated and controlled their motor vehicle, without this plaintiff, **RUEBIN KENNEDY**, in any way contributing thereto.
28. That by reason of the foregoing and the negligence of the defendants, the Plaintiff, **RUEBIN KENNEDY** was severely injured, bruised and wounded, some of which injuries are permanent in nature and duration, suffered, still suffers and will continue to suffer for some time physical pain and bodily injuries and became sick, sore, lame and disabled and so remained for a considerable length of time.
29. That by reason of the foregoing, the Plaintiff, **RUEBIN KENNEDY**, was compelled and did necessarily require medical aid and attention, and did necessarily pay and become liable for medicines and upon information and belief, the Plaintiff will necessarily incur similar expenses.
30. That by reason of the foregoing, the Plaintiff, **RUEBIN KENNEDY**, has been and will be unable to attend to his usual occupation in the manner required.
31. The aforesaid accident was due solely as a result of the defendants' negligence, gross negligence, recklessness, and carelessness in the operation of said vehicle.

32. By reason of the foregoing, the Plaintiff was caused to suffer severe and serious personal injuries to mind and body, and further, that the Plaintiff was subjected to great physical pain and mental anguish.
33. That by reason of the wrongful, reckless, negligent and unlawful actions of the defendants, as aforesaid, the Plaintiff, **RUEBIN KENNEDY**, sustained serious injuries as defined in Section 5102 (d) of the Insurance Law of the State of New York, and has sustained economic loss greater than basic economic loss as defined in Section 5102 of the said Insurance Law.
34. That Plaintiff, **RUEBIN KENNEDY**, is a 'covered person' as defined by section 5102 (j) of the Insurance Law of the State of New York.
35. That Plaintiff is entitled to recover for non-economic loss and for such economic losses as are not included within the definition of 'basic economic loss' as set forth in section 5102(a) of the Insurance Law of the State of New York.
36. That Plaintiff is entitled to recovery for non-economic loss and for all economic losses sustained.
37. This action falls within one or more of the exceptions set forth in Section 1602 of the Civil Practice Law and Rules.
38. That pursuant to CPLR Section 1602(2) (iv), Defendants are liable for all of Plaintiff's damages, including but not limited to Plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that Defendants owed Plaintiff a non-delegable duty of care.
39. That pursuant to CPLR Section 1602(7), Defendants are liable for all of Plaintiff's damages, including but not limited to Plaintiff's non-economic loss, irrespective of the

provisions of the CPLR Section 1601, by reason of the fact that Defendants acted with reckless disregard for the safety of others.

40. That pursuant to CPLR Section 1602(6), Defendants are liable for all of Plaintiff's damages, including but not limited to Plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that Defendants should be held liable by reason of Defendants' use, ownership or operation of a motor vehicle.
41. That pursuant to CPLR Section 1602(2) (iv), Defendant owner is liable for all of Plaintiff's damages, including but not limited to Plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that said is vicariously liable for the negligent acts and omissions of Defendant operator of said vehicle.
42. That by reason of the foregoing, Plaintiff, **RUEBIN KENNEDY**, was damaged in an amount which exceeds the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction herein, in an amount to be determined upon trial of this action.

AS AND FOR A SECOND CAUSE OF ACTION

43. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 43 inclusive, with the same force and effect as though more fully set forth at length herein.
44. Defendant, **JOE OROCHENA**, at all times hereinafter mentioned, was an agent, servant and/or employee of defendant, **YRC INC. d/b/a YRC FREIGHT**.
45. Defendant, **YRC INC. d/b/a YRC FREIGHT**, managed the activities of its agents, servants and/or employees, specifically defendant **JOE OROCHENA**.
46. Defendant, **YRC INC. d/b/a YRC FREIGHT** controlled the activities of its agents, servants and/or employees, specifically defendant **JOE OROCHENA**.

47. Defendant, **YRC INC. d/b/a YRC FREIGHT**, maintained the activities of its agents, servants and/or employees, specifically defendant **JOE OROCHENA**.
48. Defendant, **YRC INC. d/b/a YRC FREIGHT**, inspected the activities of its agents, servants and/or employees, specifically defendant **JOE OROCHENA**.
49. Defendant, **YRC INC. d/b/a YRC FREIGHT**, supervised the activities of its agents, servants and/or employees, specifically defendant **JOE OROCHENA**.
50. Defendant, **YRC INC. d/b/a YRC FREIGHT**, trained its agents, servants and/or employees, specifically defendant **JOE OROCHENA**.
51. Defendant, **YRC INC. d/b/a YRC FREIGHT**, by its agents, servants, employees, agencies and/or all departments, failed to adequately and properly test and/or screen applicants for the position of a driver.
52. Defendant, **YRC INC. d/b/a YRC FREIGHT**, by its agents, servants, employees, agencies and/or all departments, failed to adequately and properly train their employees, specifically defendant **JOE OROCHENA** for the position of a driver.
53. Defendant, **YRC INC. d/b/a YRC FREIGHT**, by its agents, servants, employees, agencies and/or all departments, carelessly, negligently and recklessly hired applicants for the position of a driver specifically defendant, **JOE OROCHENA**.
54. Defendant, **YRC INC. d/b/a YRC FREIGHT**, by its agents, servants, employees, agencies and/or all departments, carelessly, negligently and recklessly trained employees, specifically defendant **JOE OROCHENA** for the position of a driver.
55. Defendant, **YRC INC. d/b/a YRC FREIGHT**, by its agents, servants, employees, agencies and/or all departments, carelessly, negligently and recklessly retained drivers, specifically, **JOE OROCHENA**.

56. By reason of the foregoing, the Plaintiff was caused to suffer severe and serious personal injuries to mind and body, and further, that the Plaintiff was subjected to great physical pain and mental anguish.

57. That by reason of the foregoing, Plaintiff, **RUEBIN KENNEDY**, was damaged in an amount which exceeds the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction herein, in an amount to be determined upon trial of this action.

AS AND FOR A THIRD CAUSE OF ACTION

58. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 58 inclusive, with the same force and effect as though more fully set forth at length herein.

59. That on or about September 21, 2021, plaintiff, **RUEBIN KENNEDY**, was the owner of a 2019 Lincoln motor vehicle with license plate number KPF2664 as issued by the State of New York.

60. By reason of the foregoing, the Plaintiff, **RUEBIN KENNEDY**'s vehicle was damaged, thereby necessitating repairs/and or the replacement thereof.

61. That by reason of the foregoing, plaintiff has sustained property damages.

62. Due to Defendants' negligence, Plaintiff, **RUEBIN KENNEDY**, is entitled to damages.

63. That no portion of the aforementioned amount has been paid by other sources.

64. That as a result of the foregoing, the plaintiff, **RUEBIN KENNEDY**, has been damaged in a sum which exceeds the jurisdictional limits of all lower courts.

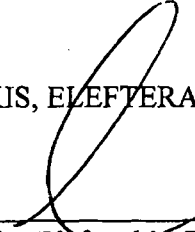
WHEREFORE, plaintiff, **RUEBIN KENNEDY**, demands judgments against the defendants in an amount which exceeds the jurisdictional limits of all other Courts which would otherwise have

jurisdiction all together with the costs and disbursements of this action. Plaintiff seeks punitive damages. Plaintiff demands a jury trial.

Dated: New York, New York
October 21, 2021

ELEFTERAKIS, ELEFTERAKIS & PANEK

By: _____


Nicholas Elefterakis, Esq.
Attorneys for Plaintiff
80 Pine Street, 38th Floor
New York, New York 10005
(212) 532-1116

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

===== X Index No:
RUEBIN KENNEDY,

Plaintiff,

VERIFICATION

-against-

JOE OROCHENA and YRC INC. d/b/a YRC FREIGHT,

Defendants.

===== X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RUEBIN KENNEDY, being duly sworn, says:

The deponent is the above named Plaintiff herein, Deponent has read the foregoing SUMMONS AND COMPLAINT and know its contents, the same is true to deponent's knowledge, except as to those matters stated to be alleged upon information and belief, and as to those matters stated to be alleged upon information and belief deponent believes them to be true.

Dated: New York, New York


RUEBIN KENNEDY

Sworn to before me this
21st Day of October, 2021


NOTARY PUBLIC

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

RUEBIN KENNEDY,

Plaintiff,

-against-

JOE OROCHENA and YRC INC. d/b/a YRC FREIGHT,

Defendants.

ELEFTERAKIS, ELEFTERAKIS & PANEK
80 Pine Street, 38th Floor
New York, New York 10005
212.532.1116

Summons and Verified Complaint

STATE OF NEW YORK, COUNTY OF NEW YORK, SS:

Nicholas Elefterakis, the undersigned, an attorney admitted to practice in the Courts of New York State, affirms the following:

I further certify that my signature below acts as a "certification" for the documents attached hereto, in compliance with section 130-1.1-a of the Rules of the Chief Administrator (22 NYCRR).

Dated: New York, New York
October 21, 2021


Nicholas Elefterakis, Esq.

PLEASE TAKE NOTICE

- () that the within is a (certified) true copy of a Notice of entered in the Office of the clerk of the within Entry named Court on
- () that an Order of which the within is a true copy will be presented for Notice of settlement to the Hon. one of the Judges of the Settlement within named Court, on at

ELEFTERAKIS, ELEFTERAKIS & PANEK
80 Pine Street, 38th Floor
New York, New York 10005
212.532.1116

AFFIDAVIT OF SERVICE

State of New York

County of Bronx

Supreme Court

Index Number: 814430/2021E

Date Filed: _____

Plaintiff/Petitioner:
RUEBIN KENNEDY

vs.

Defendant/Respondent:
JOE OROCHENA, et al.

Received by PM LEGAL to be served on YRC INC. d/b/a YRC FREIGHT, 112 Southwest 7th Street, Topeka, KS 66603.

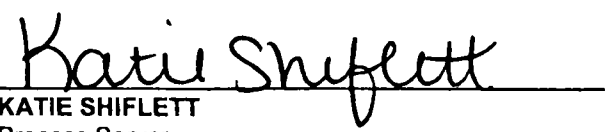
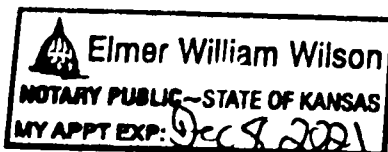
I, KATIE SHIFLETT, being duly sworn, depose and say that on the 8th day of November, 2021 at 10:45 am, I:

Served the within named establishment by delivering a true copy of **Summons; Verified Complaint and Verification** to Tammy Cessna, Intake Specialist at the address of **112 Southwest 7th Street, Suite 3C, Topeka, KS 66603**.

I am over the age of eighteen, and have no interest in the above action.

Subscribed and Sworn to before me on the 10th day of November, 2021 by the affiant who is personally known to me.



NOTARY PUBLIC
KATIE SHIFLETT
Process ServerPM LEGAL
1235 Broadway
2nd Floor
New York, NY 10001
(212) 233-4040Our Job Serial Number: HAT-2021022209
Ref: 5629522

NJSUBCOURT - SUITABLE AT BUSINESS



P5620349

ELEFTERAKIS, ELEFTERAKIS & PANEK SAMANTHA CHASE
SUPREME COURT BRONX COUNTY STATE OF NEW YORK

RUEBIN KENNEDY

PLAINTIFF

- vs -

JOE OROCHENA, ETAL

DEFENDANT

index No. 814430/2021E

Date Filed

Office No.

Court Date.

STATE OF NEW JERSEY, COUNTY OF UNION :SS:

DAVID ROJAS being duly sworn, deposes and says; I am over 18 years of age, not a party to this action, and reside in the State of New Jersey. That on the 23RD day of NOVEMBER, 2021 8:33PM at

15 1ST STREET
UNIT 1
LODI NJ 07644

I served the ATTORNEY'S VERIFICATION, SUMMONS AND VERIFIED COMPLAINT
upon JOE OROCHENA

the DEFENDANT therein named by delivering and leaving a true copy or copies of the
aforementioned documents with Carolina Orochena, WIFE
a person of suitable age and discretion.

Deponent describes the person served as aforesaid to the best of deponent's ability at
the time and circumstances of the service as follows.

SEX: FEMALE COLOR: WHITE HAIR: BROWN/BLONDE

APP.AGE: 65-75 APP. HT: 5'4 APP. WT: 160

OTHER IDENTIFYING FEATURES

MARRIED AND NOT IN MILITARY

On 12/01/2021 I deposited in the United States mail another true copy of the aforementioned
documents properly enclosed and sealed in a post-paid wrapper addressed to the said DEFENDANT
at the above address. That being
upon information and belief, the usual place of abode, last known residence of the DEFENDANT.

Copy mailed 1st class mail marked personal and confidential not indicating on the outside
thereof by return address or otherwise that said notice is from an attorney or concerns an
action against the person to be served.

Sworn to before me this
06TH day of DECEMBER, 2021

AL-NISA K. JOHNSON MUHAMMAD
Notary Public, State of New Jersey
No. 2456999
Qualified in
Commission Expires 09/27/2022

PM Legal
219 South Street, STE 102
New Providence, NJ 07974
908-897-0273

DAVID ROJAS
PM Legal, LLC
219 South Street, STE 102
New Providence, NJ 07974
908-897-0273
NEW YORK, NY 10001
Client File Number:
ELEFTERAKIS, ELEFTERAKIS & PANEK

Index No. 814430/2021E

SUPREME COURT BRONX COUNTY STATE OF NEW YORK

=====

RUEBIN KENNEDY

PLAINTIFF

- against -

JOE OROCHENA, ETAL

DEFENDANT

=====

ATTORNEY'S VERIFICATION, SUMMONS AND VERIFIED COMPLAINT

=====

ELEFTERAKIS, ELEFTERAKIS & PANEK

80 PINE STREET, 31ST FLOOR

NEW YORK, NY 10005

212-532-1116